



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,697	11/29/2001	Gordon Kerr	PAT 2678- 2 US	2599
26123 7590 11/09/2007 BORDEN LADNER GERVAIS LLP Anne Kinsman WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			EXAMINER EL CHANTI, HUSSEIN A	
			ART UNIT 2157	PAPER NUMBER
			NOTIFICATION DATE 11/09/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipinfo@blgcanada.com
aarmstrongbaker@blgcanada.com
akinsman@blgcanada.com



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

October 25, 2007

BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

In re Application of: Kerr et al.)

Application No. 09/995,697)

Attorney Docket No. PAT 2678- 2 US)

Filed: November 29, 2001)

For: STREAM PROCESSING NODE)

**DECISION ON PETITION TO
CONTEST THE HOLDING OF
NONCOMPLIANCE OF APPLICANT'S
APPEAL BRIEF 37 CFR §1.181**

This is a decision on the petition filed August 2, 2006 under 37 C.F.R. §1.181 to contest the holding of noncompliance of Applicant's Appeal Brief.

The petition is **GRANTED**.

In the Non-compliant Appeal Brief dated July 16, 2007, the examiner stated that "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and fine number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section. Applicant argues dependent claims 2-25, 27-29 and 34-38 in section VII but does not have a concise explanation in section V."

Applicant argued that "The Notification of Non-Compliant Appeal Brief, dated July 16, 2007, incorrectly alleges that the Appeal Brief does not comply with 37 C.F.R. 41.37 on the ground that the summary of dependent claims 2-25, 27-29 and 34-38 must refer to the specification and/or figures. Rule 41.37 (c)(1)(v) only requires that "for each dependant claim...every means plus function and step plus function...must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification...and to the drawings." However, claims 2-25, 27-29 and 34-38 are not means plus function or step plus function claims. Accordingly, applicant respectfully submits that the appeal brief complies with the requirement of the rule and that the Notification of Non-Compliant Appeal Brief is without basis."

Rule 41.37 (c)1(v) in its entirety states :

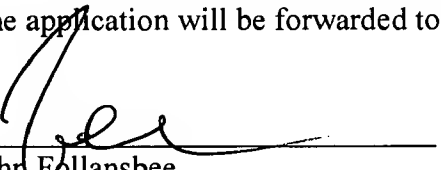
(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as

corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Based on Rule 41.37 (c)(1)(v), the examiners requirement to provide a discussion, with page and line number from the specification for each dependent claim argued separately, where the The petitioner's arguments with respect of the holding of noncompliance of Applicant's Appeal Brief are persuasive.

For the above reasons, the petition is **GRANTED**.

The application will be forwarded to the examiner for consideration on the merits.



John Follansbee
WQAS
Technology Center 2100
571-272-3964